

23B/ND//

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

REPORT OF INVESTIGATION (CLOSED)

24JUN05

ASSAULT (II)

CONTROL: 16NOV04-SWND-0642-7GNA/C

(b)(6), (b)(7)(C)

SUPP: ENEMY PRISONER OF WAR CAPTURED IN IRAQ

(b)(6), (b)(7)(C)

COMMAND/SEAL TEAM SEVEN, NAB CORONADO, CA/39591

MADE AT/SWND/SAN DIEGO CA/ (b)(6), (b)(7)(C) SPECIAL AGENT

REFERENCE(S)

- (A) NCIS Case File: (b)(3), (b)(6), (b)(7)(C) USN
CCN: 25JUN04-SWND-0350-7HNA
- (B) NCIS Case File: V/MOHAMED, FARHAD (NMN)/CIV (DECEASED)
CCN: 10APR04-MEJB-0129-7HNA/T
- (C) NCIS Case File: (b)(6), (b)(7)(C) USN
CCN: 03NOV04-SEND-0613-7GNA
- (D) NCIS San Diego, CA ROI (INTERIM)/22Dec04 (Contains Exhibits 1-19)
- (E) NCIS San Diego, CA ROI (INTERIM)/20Jan05 (Contains Exhibit 20)
- (F) NCIS San Diego, CA ROI (INTERIM)/18Feb05 (Contains Exhibits 21-22)
- (G) NCIS San Diego, CA ROI (INTERIM)/17Mar05 (Contains Exhibit 23)
- (H) NCIS San Diego, CA ROI (INTERIM)/09May05 (Contains Exhibits 24-26)

EXHIBIT(S)

- (27) Sworn Statement of (b)(6), (b)(7)(C) 07Jan05...(Copy all)

EXECUTIVE SUMMARY

1. On 18Jan04, (b)(6), (b)(7)(C) was captured by members of SEAL Team SEVEN (ST-7) during a mission in Muhmadiyah, Iraq. (b)(6), (b)(7)(C) (Detainee # (b)(6), (b)(7)(C) is a (b)(6), (b)(7)(C) of a terrorist cell responsible for attacks against Coalition Forces. After capture, (b)(6), (b)(7)(C) was immediately transported by ST-7 to a Short Term Holding Facility (STHF) belonging to the United States Army's (USA) 3rd Battalion, 505th Parachute Infantry Regiment (3/505 PIR), 82nd Airborne Division located at Forward Operating Base (FOB) St. Michael. Upon arrival at the STHF at approximately 0210, four to six ST-7 members initiated a battlefield interrogation of (b)(6), (b)(7)(C). To date, only (b)(3), (b)(6), (b)(7)(C) (b)(3), (b)(6), (b)(7)(C) USN, (b)(3), (b)(6), (b)(7)(C) have been identified as participants in this interrogation. Witnesses alleged they either saw or heard ST-7 members kick (b)(6), (b)(7)(C) several times as he lay on the ground. ST-7 was present at the STHF only on the morning of 18Jan04. (b)(6), (b)(7)(C) was transferred by USA representatives to the USA's 82nd Airborne Division Interrogation Facility (DIF) near Fallujah, Iraq, on 27Jan04, where significant injuries throughout his body were

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SUBJ: (b)(6), (b)(7)(C) CIV

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documented. On 10Feb04, (b)(6), (b)(7)(C) was transferred to Abu Ghraib Prison, where he was released on 29Jun04. The current location and condition of (b)(6), (b)(7)(C) is unknown.

2. Thorough medical documentation of (b)(6), (b)(7)(C) while at the STHF does not exist. STHF Standard Operating Procedure at the time required a full-body examination of a detainee only if warranted by "history or complaint." Such an examination was not conducted on (b)(6), (b)(7)(C) until he was transferred to the DIF on 27Jan04. Because of the lapse of time between (b)(6), (b)(7)(C) initial takedown on 18Jan04 and his first full-body examination on 27Jan04, the origin of his injuries are difficult to determine.

3. Several witnesses present at the STHF during (b)(6), (b)(7)(C) battlefield interrogation have identified ST-7 members from photographic line-ups as having "kicked" (b)(6), (b)(7)(C) or being present for his alleged abuse. All of these ST-7 members have either been established as not present for (b)(6), (b)(7)(C) takedown and interrogation, have elected not to waive their rights, or have failed to provide information indicating responsibility for (b)(6), (b)(7)(C) injuries. Of the three ST-7 members known to have participated in the battlefield interrogation of (b)(6), (b)(7)(C), (b)(3), (b)(6), (b)(7)(C) declined to waive their rights, and (b)(3), (b)(6), (b)(7)(C) provided no information of value. To date, allegations of abuse against (b)(6), (b)(7)(C) by ST-7 members cannot be substantiated. Command has expressed that because of weak and insufficient evidence, in addition to the lack of viable suspects, prosecution of this matter will not be pursued. This investigation is closed.

NARRATIVE

1. This investigation involves suspected violations of Uniform Code of Military Justice Article 92 (Failure to obey an order or regulation), Article 93 (Cruelty and maltreatment), Article 98 (Noncompliance with procedural rules), Article 107 (False official statement), and Article 128 (Assault consummated by a battery).

2. This investigation was initiated in response to information obtained from investigations reported in References (A) and (B). Reference (C) represents an additional investigation into alleged abuse by ST-7. References (D) through (H) document prior investigative efforts.

3. On 10Jun05, pursuant to lead tasking sent under conduct of this investigation on 04Jan05, Reporting Agent received from the NCIS Middle East Field Office the sworn statement of (b)(6), (b)(7)(C) a civilian linguist who was present for (b)(6), (b)(7)(C) turnover to the DIF in Falujah. The statement, taken on 07Jan05 but incorrectly dated 07Dec04, is attached as Exhibit (27). (b)(6), (b)(7)(C) described typical in-processing procedures at the DIF, as well as his role as a CAT II linguist, which meant he carried a security clearance and provided linguistic support in interrogations of detainees. (b)(6), (b)(7)(C) was unable to recall (b)(6), (b)(7)(C) the incident involving (b)(6), (b)(7)(C) or evidence of any incidents similar to what (b)(6), (b)(7)(C) described. However, (b)(6), (b)(7)(C) did describe some of the detainees that he remembered, including

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memorable injuries. This information was related to Special Agent (b)(6), (b)(7)(C) of the US Army Criminal Investigative Division (USACID) Detainee Abuse Task Force (DATF), and is also described in Exhibit (27).

4. All persons of interest in this investigation have either been questioned or have declined to speak with NCIS. Analysis of data from seized computers and other electronic media has not produced information substantial and unique to this investigation. Results of this analysis have been reported through Reference (A). As previously reported in Reference (F), Command has stated it believes there is insufficient evidence to indicate culpability in this matter, and subsequently does not support charges or prosecution of any ST-7 personnel. Similarly, Trial Service Office West has also declined to pursue this matter further. As no viable suspects have developed, there are no fingerprint cards or photographs to submit pursuant to this investigation. All logical leads have been exhausted at this time. This investigation is closed.

PARTICIPANT(S)

(b)(6), (b)(7)(C) Special Agent, NCISFO Bahrain

DISTRIBUTION

NCISHQ: 0023B (M)

INFO: SWND/POSTSW (E)/TSO, Attn: (b)(6), (b)(7)(C) (H) /
COMNAVSPECWARCOM, Attn: Force Judge Advocate (M)**FOR OFFICIAL USE ONLY**

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